

DR. THOMAS B. MEADE

MARCH 10, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 1466]

The Committee on the Judiciary, to whom was referred the bill (H. R. 1466), for the relief of Dr. Thomas B. Meade, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

The amendment is as follows:

Page 1, line 10: Strike the period and insert,

: *Provided*, That no part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

PURPOSE

The purpose of the proposed legislation is to provide for the payment out of District of Columbia funds of the sum of \$159.87 to Dr. Thomas B. Meade of Brooklyn, N. Y., as reimbursement for the cost of repairs to his automobile which was damaged while being towed by the Metropolitan Police Department of the District of Columbia on September 10, 1954.

STATEMENT

D. Meade's automobile was towed away from the place that it was parked in the 2000 block of 15th Street NW., Washington, D. C., on the ground that it was illegally parked. A police officer of the Metro-

politan Police Department had directed a civilian employee of the District of Columbia to remove the automobile from the street and impound it because it was blocking a lane of traffic which was needed for the expeditious movement of the heavy volume of traffic on the street at that time of the morning. The tow truck used to tow Dr. Meade's car away was equipped with a horizontal steel boom attached to its rear end which could be raised and lowered by means of a cable wound around a revolving drum. The end of the boom was placed under the front of Dr. Meade's car and raised by revolving the drum. The drum was held in place by a steel reduction device, attached to an upright steel beam, which fitted into a cogged wheel attached to the drum. In taking the car to the impounding lot, a bolt which held the reduction device to the upright beam stripped the threads which held it to the beam and pulled out. This allowed the drum to revolve and the automobile to roll forward and strike the rear of the tow truck. When the car struck the rear of the truck the front bumper and the grill of the car were damaged, and repairs also had to be made to the radiator. The front wheels of the car also had to be realigned.

As is shown in the report of the government of the District of Columbia on the bill to this committee, the District of Columbia refused to pay the claim, under the law permitting the settlement of certain claims against the District, on the basis that the failure of the bolt could not be taken as evidence of negligence. The stand of the District government is that reasonable care had been exercised in the maintenance of the equipment, and there was no previous indication that the threading holding the bolt was or might be faulty. While the District states concerning the cost of repairs:

It does not appear that the sum which Dr. Meade seeks to reimburse him for the cost of repairing his automobile is inconsistent with the damage sustained—

and states that it is clear that the car was damaged while in the custody of employees of the Metropolitan Police Department, the position of the government of the District of Columbia is that it is clear that the District of Columbia is not legally liable for the damages sustained by Dr. Meade's automobile. The report of the District of Columbia therefore states that the Commissioners do not favor enactment of the legislation.

The committee has carefully considered the facts of the matter and the material contained in the report of the District of Columbia, and has concluded that the relief provided for in H. R. 1466 should be granted to Dr. Meade. Since Dr. Meade's automobile was under the control of the District of Columbia at the time of the accident, the committee has concluded that it is only just to pay for the damage as provided for in the bill. Accordingly, the committee recommends that the bill be considered favorably.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
EXECUTIVE OFFICE,
Washington, D. C., January 30, 1958.

Hon. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
United States House of Representatives,
Washington, D. C.*

DEAR MR. CELLER: The Commissioners have for report H. R. 1466, 85th Congress, a bill for the relief of Dr. Thomas B. Meade.

From the files in my possession it appears that at about 8:40 a. m., September 9, 1954, Dr. Thomas B. Meade's automobile was illegally parked in the 2000 block of 15th Street NW., Washington, D. C., in violation of a "No standing 7 to 9:30 a. m." regulation.

An officer of the Metropolitan Police Department observed Dr. Meade's automobile so parked and placed a traffic violation notice on it. A short time later another police officer directed a civilian employee of the District of Columbia to remove the automobile from the street and impound it because it was blocking a lane of traffic which was needed for the expeditious movement of the heavy volume of traffic on the street at this time of the morning.

The tow truck which was used to remove the automobile was especially designed and regularly used for this purpose. It was equipped with a horizontal steel boom attached to its rear end which could be raised and lowered by means of a cable wound around a revolving drum. The end of the boom was placed under the front of Dr. Meade's automobile and raised by revolving the drum. When the front end of the automobile was raised to the desired height, the drum was held in place by means of a steel reduction device, attached to an upright steel beam, which fitted into a cogged wheel attached to the drum.

In the process of removing the automobile from the place where it was illegally parked to the impounding lot, and, while at Sixth Street and Indiana Avenue NW., a bolt which held the reduction device to the upright beam stripped the threads which held it to the beam and pulled out. This allowed the drum to revolve and the automobile to roll forward and strike the rear of the tow truck. The blow damaged the front bumper and grill of the automobile.

The cause of the failure of the threading in the steel beam to hold the bolt is not known. The size of the bolt and its method of use appear consistent with the purpose for which it was used. There was no evidence, prior to the failure of the threading to hold the bolt, that it might give way. Although the tow truck was subject to inspection at regular intervals there does not appear to have been any way in which this particular defect could have been discovered short of removing the bolt and examining the inside of the hole into which it fitted, and since the metal appears to have given way suddenly it would seem doubtful that it could have been discovered in this way.

Subsequent to the happening of the accident Dr. Meade appeared at the Traffic Division of the Metropolitan Police Department and deposited and elected to forfeit collateral for a violation of the parking regulation in question. Thereafter he filed with the Commissioners of the District of Columbia a claim in the amount of \$159.87 for the damage to his automobile. The matter was referred to the Corporation Counsel for consideration. A thorough investigation was made,

including an examination of the tow truck and of the background and cause of the accident.

The Corporation Counsel, after careful consideration of all the known facts and circumstances, approved a report prepared by one of his assistants denying liability on behalf of the District of Columbia. This report concluded that before the District of Columbia could be held liable for the damage to Dr. Meade's automobile there must be evidence of negligence on the part of the District of Columbia or its employees, and that the sudden failure of the bolt which held the reduction device on the tow truck could not be regarded as evidence of negligence provided it could be established that reasonable care had been exercised in the maintenance of the equipment and there was no previous warning of the faulty part. It appears that reasonable care had been exercised in the maintenance of the equipment and there was no previous indication that the threading holding the bolt was, or might be, faulty. Indeed, mechanics, queried concerning the situation, have affirmatively stated that the defect, if any, in the bolt threads was latent and could not have been discovered by reasonable inspection.

Although the performance by District of Columbia employees of the duties of the Metropolitan Police Department constitutes a governmental function of the municipality rendering it immune from liability arising from the negligence of such employees while engaged in the performance of such duties, the denial of Dr. Meade's claim was not predicated on such immunity.

The act of February 11, 1929 (45 Stat. 1160, ch. 73, sec. 1), as amended by the act of June 5, 1930 (46 Stat. 500, ch. 400 (sec. 1-902, D. C. Code, 1951)), authorizes the Commissioners of the District of Columbia to settle claims against the District of Columbia for negligent or wrongful acts of its employees when the District of Columbia, "if a private individual, would be liable prima facie to respond in damages, irrespective of whether such negligence occurred or such acts were done in the performance of a municipal or a governmental function of said District." Where the facts indicate a case of prima facie liability the defense of governmental function is uniformly waived. The denial of Dr. Meade's claim was based upon the clear absence of liability on the part of the District of Columbia.

It does not appear that the sum which Dr. Meade seeks to reimburse him for the cost of repairing his automobile is inconsistent with the damage sustained. As to the merits of the bill, it clearly appears that Dr. Meade's automobile was damaged while in the custody of employees of the Metropolitan Police Department; on the other hand, it appears equally clear that the District of Columbia is not legally liable for the damages sustained by Dr. Meade's automobile.

The Commissioners do not favor enactment of this legislation.

The Commissioners have been advised by the Bureau of the Budget that there is no objection on the part of that office to submission of this report to the Congress.

Yours very sincerely,

ROBERT E. McLAUGHLIN,
President, Board of Commissioners, District of Columbia.

